



CITY DEVELOPMENT DEPARTMENT

ZONING BOARD OF ADJUSTMENT MEETING MINUTES CITY COUNCIL CHAMBERS, 2ND FLOOR, CITY HALL SEPTEMBER 10, 2012 1:30 P.M.

Meeting called to order at 1:31 p.m.

The following Board Members answered roll call:

Mr. Rigoberto Mendez, Vice-Chairman
Mr. Ken Gezelius
Mr. Robert Garland
Mr. Sam Barela
Mr. Jeff Gonzalez
Mr. Robert Concha, Jr.
Mr. James Wolff
Mr. Scott Walker

The following City Staff were present:

Ms. Linda Castle, City Development Department, Zoning Board of Adjustment Coordinator
Mr. Alex Hoffman, City Development Department, Lead Planner
Mr. Juan Estala, City Development Department, Chief Plans Examiner
Ms. Kristen Hamilton, City Attorney's Office, Assistant City Attorney

CHANGES TO THE AGENDA

None.

Mayor

John F. Cook

City Council

District 1

Ann Morgan Lilly

District 2

Susie Byrd

District 3

Emma Acosta

District 4

Carl L. Robinson

District 5

Dr. Michiel R. Noe

District 6

Eddie Holguin Jr.

District 7

Steve Ortega

District 8

Cortney Carlisle Niland

City Manager

Joyce A. Wilson

Two Civic Center Plaza
El Paso, TX 79901
(915) 541-4290





ITEM 1:

PZBA12-00028

5421 Lackland Street

Jose de Jesús Ramirez

Applicant requests a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an A-2 (Apartment) zone. This would allow a 15' by 14' addition of which a 15' by 6' portion is proposed to encroach into the required rear yard setback and to be located to within 10' of the rear property line. The required front and rear yard cumulative setback total is 45 feet in the A-2 zone district. The applicant is proposing the addition of a bedroom which will encroach in the required rear yard setback. There is an existing storage shed and shade canopy in the rear yard. The shade canopy is located to within 5 feet of the main house and 0 feet of the side street property line. The shade canopy, including posts, is required to be 5 feet from the house and 5 feet from the side street property line. The lot and house exist in the 1956 aerial and the property can be registered legally nonconforming as to the 80' lot depth, with 90' lot depth required in the A-2 zone district for a single-family dwelling. **STAFF RECOMMENDATION IS FOR APPROVAL OF THE SPECIAL EXCEPTION C, FOR THE ADDITION, WITH THE CONDITION THAT THE CANOPY STRUCTURE IN THE REAR YARD IS EITHER BROUGHT INTO COMPLIANCE WITH ZONING AND BUILDING CODE REQUIREMENTS OR IS REMOVED.**

Ms. Castle gave a PowerPoint presentation and stated the location of the shade canopy posts have been moved over five feet from the side street property line, as required by the El Paso City Code. However, it was unclear whether or not the shade canopy posts were located five feet from the main structure.

Mr. Ray Montes, contractor, responded he had moved the shade canopy columns six feet from the side street, McConnell Avenue.

Mr. Gonzalez requested that the following be entered into the record:
For the Record - Mr. Ray Montes was present to testify that he has brought the shade canopy posts into compliance with the Code.

Vice-Chairman Mendez asked if Board Members had any questions and/or comments. There were none.

Mayor

John F. Cook

City Council

District 1

Ann Morgan Lilly

District 2

Susie Byrd

District 3

Emma Acosta

District 4

Carl L. Robinson

District 5

Dr. Michiel R. Noe

District 6

Eddie Holguin Jr.

District 7

Steve Ortega

District 8

Cortney Carlisle Niland

City Manager

Joyce A. Wilson

Two Civic Center Plaza
El Paso, TX 79901
(915) 541-4290





Vice-Chairman Mendez asked if anyone in the audience wished to speak in favor of or in opposition to the request. There was no response.

MOTION:

Motion made by Mr. Gezelius, seconded by Mr. Gonzalez AND UNANIMOUSLY CARRIED TO APPROVE WITH THE CONDITION THAT THE SHADE CANOPY STRUCTURE BE LOCATED FIVE FEET FROM THE SIDE STREET (McCONNELL) AND FIVE FEET FROM THE MAIN HOUSE.

Prior to the meeting, Staff distributed copies of the Building Permits & Inspections memorandum, regarding the proposed carport. The memorandum stated the carport's structural design had been reviewed and was found to be acceptable; however, the applicant must provide the truss design package when applying for the permit.

ITEM 2:

PZBA12-00030

3901 Hillcrest Drive

Patricia Mata

Applicant requests a Special Exception under Section 2.16.050 J (Driveway over a Carport) in an R-3 (Residential) zone. This would permit a 25.5' by 19' carport which is proposed to encroach into the required front yard setback and to be located to within 13 feet of the front property line. The required front and rear yard cumulative setback total is 50 feet in the R-3 zone district. The applicant is requesting a carport that will encroach in the front yard. There is no utility easement at the front property line. The structural plans for the carport have been approved by Building Permits & Inspections; however, the written approval is pending. The carport will match the house in materials and design and the carport roof will rise no higher than the roof of the house. **STAFF RECOMMENDATION IS FOR APPROVAL WITH THE CONDITION THAT THE OVERHANG IS LOCATED NO CLOSER THAN 3 FEET TO THE EASTERLY SIDE PROPERTY LINE.**

Ms. Castle gave a PowerPoint presentation and noted Staff did not receive any phone calls, letters or emails in favor of or opposition to the request. She explained that, at the time Staff reviewed the site plan, Staff did have some concerns whether or not the applicant would maintain the five foot side setback with the 24" permitted overhang.

Mr. Jesus Jaime, representing the applicant, was present.

Two Civic Center Plaza
El Paso, TX 79901
(915) 541-4290

Mayor

John F. Cook

City Council

District 1

Ann Morgan Lilly

District 2

Susie Byrd

District 3

Emma Acosta

District 4

Carl L. Robinson

District 5

Dr. Michiel R. Noe

District 6

Eddie Holguin Jr.

District 7

Steve Ortega

District 8

Cortney Carlisle Niland

City Manager

Joyce A. Wilson





Vice-Chairman Mendez asked if Board Members had any questions and/or comments. There were none.

Vice-Chairman Mendez asked if anyone in the audience wished to speak in favor of or in opposition to the request.

MEMBERS OF THE PUBLIC

Mr. and Mrs. Koehler, neighborhood residents, spoke in opposition to the request as follows:

1. The property owner currently has an existing double car garage;
2. The proposed carport would be out of character with the other homes in the neighborhood;
3. The proposed carport would have a negative effect on the aesthetics of the neighborhood;
4. The proposed carport would not fit in with the architecture in the neighborhood;
5. The Koehlers' property value would decrease.

For Mrs. Koehler, Mr. Walker commented on the responsibilities of the Board and explained Board Members must adhere to the requirements of Section 2.16.050 J Special Exception (Carport over a Driveway). He clarified the proposed carport will be 13' from the front property line.

Vice-Chairman Mendez thanked Mr. and Mrs. Koehler for attending today's meeting and expressing their opinions.

After construction is completed Ms. Castle explained, the applicant and/or representative must contact the City Development Department, Building Permits & Inspections Division and request an inspection. She noted that at the time of the inspection the City Inspector will have a copy of the Site Plan with him/her during the inspection process.

Mr. Barela clarified the setback in an R-3 (Residential) zone is five feet from the side property line. He then asked Staff if that also applies to the overhang.

Ms. Castle responded property owners are allowed 24" of overhang into the required side yard setback.

Mayor

John F. Cook

City Council

District 1

Ann Morgan Lilly

District 2

Susie Byrd

District 3

Emma Acosta

District 4

Carl L. Robinson

District 5

Dr. Michiel R. Noe

District 6

Eddie Holguin Jr.

District 7

Steve Ortega

District 8

Cortney Carlisle Niland

City Manager

Joyce A. Wilson

Two Civic Center Plaza
El Paso, TX 79901
(915) 541-4290





SITE PLAN AND OVERHANG MEASUREMENT DISCUSSION

Per the site plan, Mr. Garland observed the proposed carport encroaching into the three foot overhang. He explained the proposed carport is at a diagonal; therefore, if you measure from the overhang it will not be three feet.

Mr. Gonzalez answered the overhang is three feet, exactly 24" from the five foot of the support structure.

Mr. Jesus Jaime clarified the measurement is three feet.

Mr. Garland countered it is three feet at the column, what about the end of the overhang.

Mr. Jaime responded it will be three feet and he did measure it with an angle. It is five feet from the column and three feet from the overhang.

Board Members discussed the three foot measurement from the overhang and the five foot measurement from the column.

Mr. Garland explained the overhang is two feet but the property line is at an angle, creating a triangle; if the property line were parallel to the structure it would be three feet.

Mr. Jaime disagreed with Mr. Garland's statement.

Mr. Garland concurred with Staff's recommendation; that the overhang be located no closer than three feet to the easterly side property line; the measurement being from the closest point of the overhang to the property line.

Mr. Estala explained Staff discussed the plan during a Staff meeting and realized the carport was at an angle; therefore, Staff recommended that the applicant comply with the three foot overhang since the Code allows the two foot overhang. At the time the applicant submits the plans for review and permit the site plan must show the three foot distance from the overhang to the side property line, as well as at the time of inspection.

Vice-Chairman Mendez asked if there were any further questions and/or comments from the Board. There were none.

Two Civic Center Plaza
El Paso, TX 79901
(915) 541-4290

Mayor

John F. Cook

City Council

District 1

Ann Morgan Lilly

District 2

Susie Byrd

District 3

Emma Acosta

District 4

Carl L. Robinson

District 5

Dr. Michiel R. Noe

District 6

Eddie Holguin Jr.

District 7

Steve Ortega

District 8

Cortney Carlisle Niland

City Manager

Joyce A. Wilson





MOTION:

Motion made by Mr. Gezelius, seconded by Mr. Walker AND CARRIED TO APPROVE WITH THE CONDITION THAT THE OVERHANG IS LOCATED NO CLOSER THAN 3 FEET TO THE EASTERLY SIDE PROPERTY LINE.

AYES: Vice-Chairman Mendez, Messrs. Gezelius, Garland, Barela, Concha, Jr., Wolff, and Walker

NAY: Mr. Gonzalez

Motion to approve passed. (7-1)

ITEM 3:

PZBA12-00031 316 Villa Canto Street Estate of Nancy Jean Lowman
Applicant requests a Special Exception under Section 2.16.050 G (Builder Error) in an A-2 (Apartment) zone. This would allow the existence of a duplex which is located to within 4.4' of the northerly side property line. The required side yard setback is 5 feet in the A-2 zone district. Ms. Lowman Hutson is attempting sell one side of the duplex. A survey reveals that the unit at the northerly side of the duplex is encroaching into the required 5' side setback. She has submitted a letter stating that the error appears to be inadvertent, occurring when the duplex was constructed in the 1980's. **STAFF RECOMMENDATION IS FOR APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION G.**

Ms. Castle gave a PowerPoint presentation and noted Staff did receive one email in favor of the proposed request.

Ms. Lori Lowman-Hutson, representing the applicant, was present.

Vice-Chairman Mendez asked if Board Members had any questions and/or comments. There were none.

Vice-Chairman Mendez asked if anyone in the audience wished to speak in favor of or in opposition to the request. There was no response.

Mayor

John F. Cook

City Council

District 1

Ann Morgan Lilly

District 2

Susie Byrd

District 3

Emma Acosta

District 4

Carl L. Robinson

District 5

Dr. Michiel R. Noe

District 6

Eddie Holguin Jr.

District 7

Steve Ortega

District 8

Cortney Carlisle Niland

City Manager

Joyce A. Wilson



MOTION:

Motion made by Mr. Garland, seconded by Mr. Gezelius AND UNANIMOUSLY CARRIED TO APPROVE.

Prior to the meeting, Staff distributed copies of the revised Site Plan.

ITEM 4:

PZBA12-00032 6353 Franklin Summit Drive Robert Tarango
Applicant requests a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3A (Residential) zone. This would allow the addition of a 46' by 24' porch of which a 46' by 11'4" portion is proposed to be located to within 14'5" of the rear property line. The required front and rear yard cumulative setback total is 45 feet in the R-3A zone district. The applicant is requesting an open porch, larger than permitted by the Zoning Code, to cover his new swimming pool. **STAFF RECOMMENDATION IS FOR APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION C.**

Ms. Castle gave a PowerPoint presentation and noted Staff did not receive any phone calls, letters or emails in favor of or in opposition to the request.

Mr. Robert Tarango, property owner, was present.

Vice-Chairman Mendez asked if Board Members had any questions and/or comments. There were none.

Vice-Chairman Mendez asked if anyone in the audience wished to speak in favor of or in opposition to the request. There was no response.

Mr. Estala asked Mr. Tarango if the proposed porch above the swimming pool would eventually become a deck. He clarified that the request today is for the removal of the small balcony and explained that should Mr. Tarango convert the balcony into a deck someday the roof structure must be constructed very sturdily.

Mayor

John F. Cook

City Council

District 1

Ann Morgan Lilly

District 2

Susie Byrd

District 3

Emma Acosta

District 4

Carl L. Robinson

District 5

Dr. Michiel R. Noe

District 6

Eddie Holguin Jr.

District 7

Steve Ortega

District 8

Cortney Carlisle Niland

City Manager

Joyce A. Wilson

Two Civic Center Plaza
El Paso, TX 79901
(915) 541-4290





Mr. Tarango responded at this time he is not considering converting the porch into a deck; he wants to get the pool covered. He explained that for the pool to be installed, he had to remove the small porch because the swimming pool must be five feet from the house.

Mr. Garland clarified Staff is asking if the balcony has been structurally engineered to act as a deck.

Mr. Tarango responded yes, but he is not requesting a deck today. At this time he just wants to enclose the porch. He explained that the plans he submitted show the laminate beams as requested by Staff.

Should the balcony be converted into a deck someday, Mr. Walker suggested that the applicant do that today; otherwise, the balcony will have to be demolished and rebuilt.

Mr. Garland clarified the balcony is designed to be a deck eventually, but the structure is already in place to be structurally sound.

Mr. Estala asked Mr. Tarango if the doors leading to the balcony will be closed.

Mr. Tarango responded yes.

1st MOTION:

Motion made by Mr. Gezelius TO APPROVE.

Prior to the vote, Mr. Garland noted there were no elevation plans for the Board to review. Later, he asked Mr. Tarango if he would be putting in windows where the doors are currently located.

Mr. Tarango responded the elevations have already been submitted and reviewed by the Building Permits & Inspections Department. Mr. Tarango then gave background information regarding his plans and the Building Permits & Inspections Department Staff review. Regarding removing and replacing the doors, Mr. Tarango explained he was unsure what will be going there, that will be his wife's decision.

Mayor

John F. Cook

City Council

District 1

Ann Morgan Lilly

District 2

Susie Byrd

District 3

Emma Acosta

District 4

Carl L. Robinson

District 5

Dr. Michiel R. Noe

District 6

Eddie Holguin Jr.

District 7

Steve Ortega

District 8

Cortney Carlisle Niland

City Manager

Joyce A. Wilson

Two Civic Center Plaza
El Paso, TX 79901
(915) 541-4290





2nd MOTION:

Motion made by Mr. Garland TO APPROVE WITH THE CONDITION THAT THE DOOR BE REMOVED AND A WALL OR WINDOW BE INSTALLED TO PREVENT ACCESS TO THE DECK.

Mr. Walker explained if the porch is converted into a deck, Mr. Tarango will need to submit the structural drawings in advance, otherwise the porch will have to be demolished and reconstructed. The drawings submitted for this request most likely do not meet the requirements for a deck.

Mr. Estala added should the Board approve this request; he will have to see the structural plans to verify that the plans correspond with the Board Members approval.

Ms. Castle requested clarification of the motion language.

Mr. Garland restated that the motion is to approve with the condition that the doors be removed or it is designed as a deck.

Ms. Castle suggested the motion language "*or that the roof structure is designed as a deck.*"

Mr. Garland concurred.

3rd AND FINAL MOTION:

Motion made by Mr. Garland, seconded by Mr. Concha AND UNANIMOUSLY CARRIED TO APPROVE WITH THE CONDITION THAT THE DOOR BE REMOVED OR THAT THE ROOF STRUCTURE BE DESIGNED AS A DECK.

Other Business:

Ms. Castle explained Chairman Rick Aguilar's term would be expiring soon and that he would not be returning as a Board Member. She noted Chairman Aguilar served one Alternate Board Member term and two Regular Board

Mayor

John F. Cook

City Council

District 1

Ann Morgan Lilly

District 2

Susie Byrd

District 3

Emma Acosta

District 4

Carl L. Robinson

District 5

Dr. Michiel R. Noe

District 6

Eddie Holguin Jr.

District 7

Steve Ortega

District 8

Cortney Carlisle Niland

City Manager

Joyce A. Wilson

Two Civic Center Plaza
El Paso, TX 79901
(915) 541-4290





Member terms, one term as Chairman. Staff will place an item on the next ZBA Agenda to elect a new Chairman.

FOR THE RECORD

Regarding Item 2. PZBA12-00030, Mr. Gonzalez requested that the record reflect he voted NAY.

5. Approval of Minutes: August 13, 2012

Vice-Chairman Mendez asked if Board Members had any additions/corrections/revisions to the minutes. There was no response.

MOTION:

Motion made by Mr. Gezeliuss, seconded by Mr. Garland AND UNANIMOUSLY CARRIED TO APPROVE THE AUGUST 13, 2012 MEETING MINUTES.

ABSTAIN: *Messrs. Concha, Gonzalez and Wolff*

MOTION:

Motion made by Mr. Gezeliuss, seconded by Mr. AND UNANIMOUSLY CARRIED TO ADJOURN AT 2:16 P.M.

Linda Castle, Senior Planner

Two Civic Center Plaza
El Paso, TX 79901
(915) 541-4290

Mayor

John F. Cook

City Council

District 1

Ann Morgan Lilly

District 2

Susie Byrd

District 3

Emma Acosta

District 4

Carl L. Robinson

District 5

Dr. Michiel R. Noe

District 6

Eddie Holguin Jr.

District 7

Steve Ortega

District 8

Cortney Carlisle Niland

City Manager

Joyce A. Wilson

